

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LORJAC, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 50572</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 18, 2009 MaryKay Kelley and Debra A. Baumbach presiding. Petitioner was represented by Mr. Jack England, manager for Lorjac LLC. Respondent was represented by Robert D. Clark Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2005, 2006, and 2007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**300 Prairie Hawk, Castle Rock, Colorado
(Douglas County Schedule No. R0074042)**

The subject property consists of a single family wood frame structure constructed in 1905, 1,062 square feet in size. The residence is determined by Petitioner to be uninhabitable and is situated on 0.728 acres located within the Town of Castle Rock. The market area consists of a mixture of older fair quality residences and light industrial.

Petitioner presented an indicated value of \$50,000.00 for the subject property for tax years 2005, 2006, and 2007. Petitioner did not present any comparable sales for consideration.

Petitioner testified the subject property was purchased in 2005 for back taxes. Petitioner considered the subject to be uninhabitable, and the condition of the well and septic is not known.

The windows are broken out, the roof needs to be replaced, and major reconstruction would be necessary.

The property is located in an area with a mixture of light industrial, railroad, and older fair quality single family residences. The subject is affected by the proximity to the highway and there is a higher degree of crime in the area.

Petitioner does not believe Respondent used the best comparable sales or gave adequate consideration for the differences. All of the sales used by Respondent are superior in quality, location, condition, and market appeal. Petitioner contends that Respondent inadequately adjusted for the adverse conditions affecting the subject property.

Petitioner is requesting a 2005, 2006, and 2007 actual value of \$50,000.00 for the subject property.

Respondent presented an indicated value of \$85,000.00 for tax years 2005, 2006, and 2007 based on the market approach.

Respondent's witness, Ms. Virginia K. Wood, Certified Residential Appraiser with the Douglas County Assessor's office, presented four comparable sales for tax years 2005 and 2006 ranging in sales price from \$136,500.00 to \$170,000.00 and in size from 676 to 1,380 square feet; for tax year 2007 four comparable sales were presented ranging in sales price from \$180,000.00 to \$210,000.00 and in size from 884 to 1,064 square feet.

Respondent also included in the analysis two residential site sales and one industrial site sale for tax years 2005 and 2006. Comparables 1 and 2 both are smaller in size than the subject and have superior access. Comparable 3 is an industrial site, with minimal weight placed on this sale. Comparable 1 was considered to be the most similar in size, location, and use for an indicated site value of \$45,000.00 for the subject property.

In establishing the site value for tax year 2007, two residential site sales and three commercial/industrial site sales were considered. Comparables 1 and 2 are both adjoining residential sites containing 0.241 acres, having similar functionality. Both sites have superior access and are much smaller in size than the subject. Comparables 3, 4, and 5 are commercial/industrial sites with minimal weight being placed on these sales. Most emphasis was placed on Comparables 1 and 2, the residential sites, for an indicated site value of \$45,000.00 for the subject property.

Respondent's witness testified the subject property was considered to be an improved residential site during 2005 through 2007. Respondent's witness testified that according to the Division of Property Taxation guidelines the subject property must be valued as a residentially improved property. The subject would require extensive reconstruction to be considered habitable, therefore minimal value was placed on the improvements. The overall repair costs to improve the property might also outweigh any derived benefits. Because of the condition of the improvements there was a high degree of required adjustments with the largest adjustments for

quality of construction and condition. Adjustments were also made for all differences in physical characteristics.

The adjustments for quality of construction and condition were derived from cost estimates from the "Marshall & Swift Residential Cost Handbook." Cost estimates for low cost mountain cabins and cottages were used along with additional cost estimates for electrical, base plumbing, and water heater. Current cost multipliers and local multipliers were used to arrive at an adjustment figure of \$45,000.00.

Ms. Wood also testified that she did consider the access to the subject property and the location to the railroad tracks in the valuation. There are several other light commercial/industrial properties located within close proximity to the subject that share the same access and location. In response to Petitioner's contention that the value of the subject is affected by a higher amount of crime in the area, Ms. Woods found that there was insufficient data showing that this area has any higher degree of crime.

Respondent assigned an actual value of \$124,504.00 for tax years 2005 and 2006, and an actual value of \$160,000.00 for tax year 2007. Respondent is recommending a reduction in value for tax years 2005, 2006, and 2007 to \$85,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax years 2005, 2006, and 2007.

Petitioner did not provide the Board with any comparable sales for consideration or estimates for repairs to refute Respondent's calculations. The Board placed little weight on the crime reports. There was no convincing evidence supporting adjustments for a higher degree of crime. Both parties agreed that major reconstruction would be necessary to make the residence habitable.

The Board was convinced Respondent utilized the best sales available within the market area and made appropriate adjustments for most of the differences. However, the Board was not convinced that sufficient consideration was given for demolition costs and hauling costs, which Respondent estimated between \$30,000.00 and \$50,000.00. Therefore, the Board concluded further reduction is warranted. The Board increased the adjustment for condition to include further consideration for demolition and hauling costs.

The Board concluded that the 2005, 2006, and 2007 actual value of the subject property should be reduced to \$55,000.00.

ORDER:

Respondent is ordered to reduce the 2005, 2006, and 2007 actual value of the subject property to \$55,000.00.

The Douglas County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

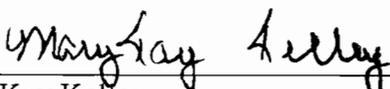
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 23rd day of December 2009.

BOARD OF ASSESSMENT APPEALS

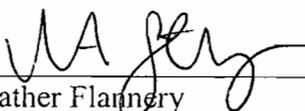


MaryKay Kelley



Debra A. Baumbach

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery

